

**APR 18 2006**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

CHANDRA KISHOR,

Plaintiff - Appellant,

v.

GEAGHTY, Doctor; et al.,

Defendants - Appellees.

No. 05-16621

D.C. No. CV-02-01632-FCD/JFM

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the Eastern District of California  
Frank C. Damrell, Jr., District Judge, Presiding

Submitted April 13, 2006<sup>\*\*</sup>

Before: SILVERMAN, McKEOWN, and PAEZ, Circuit Judges.

California state prisoner Chandra Kishor appeals pro se from the district court's order dismissing his 42 U.S.C. § 1983 action alleging deliberate indifference to his serious medical needs. We have jurisdiction pursuant to 28

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<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

U.S.C. § 1291. We review for abuse of discretion a district court's dismissal for failure to comply with court orders and procedural rules, *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260 (9th Cir. 1992), and we affirm in part and dismiss in part.

The district court did not abuse its discretion by dismissing Kishor's action on the ground that he repeatedly failed to comply with court orders and the rules of procedure requiring him to amend his complaint to include only those claims for which he had exhausted administrative remedies prior to suit. *See* Fed. R. Civ. P. 41(b) (allowing dismissal of an action for failure of the plaintiff to comply with procedural rules or any order of the court); *see also Ferdik*, 963 F.2d at 1260-61 (affirming dismissal of prisoner civil rights action where prisoner failed to comply with district court's order for filing an amended complaint).

We lack jurisdiction over Kishor's claims against defendant Dr. Drennan because he was not timely served with a notice of appeal in the form of Kishor's informal opening brief. Accordingly, the Appellate Commissioner's order of November 25, 2005 is vacated as to Dr. Drennan.

Kishor's remaining contentions lack merit.

All pending motions are denied as moot.

**AFFIRMED in part; DISMISSED in part.**